

### **REMARKS**

These remarks are in response to the Office Action dated October 30, 2006. Claims 12-21 were pending in the application at the time of examination.

In the Office Action, claims 12-18 are rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Pat. No. 5,591,197 (“Orth”).

Claims 19-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Reconsideration of the application is respectfully requested in light of the following remarks.

#### **I. REJECTIONS UNDER 35 U.S.C. § 102(e)**

Claims 12-18 are rejected under 35 U.S.C. § 102(e) as anticipated by Orth. The Examiner asserts that Orth clearly anticipates each and every limitation of the rejected claims. Applicant respectfully traverses these rejections.

“A claim is anticipated *only if each and every element* set forth in the claim is found, either expressly or inherently, *in a single prior art reference.*” See, MPEP §2131 (*quoting Verdegaa Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987) (emphasis supplied). Contrary to the Office Action, Orth fails to disclose “each and every element” of claims 12-18.

Applicant’s independent claim 12 is directed to a stent comprising at least one limb. Each limb is “comprised of two curved portions having opposite directions of curvature, an intermediate straight, flat mid-portion connecting the two curved portions and a short, straight segment at each end.” Claim 12 is amended to clarify that “*the intermediate straight, flat mid-portion is angled with respect to the short, straight segments at each end in an expanded state.*” No new matter has been added by this amendment, and support for this amendment may be found throughout Applicant’s specification and in the various figures. By way of example, in one embodiment, element 18 of Applicant’s disclosure is angled with respect to elements 16 in an expanded state (see, e.g., Applicant’s specification at page 18; FIGS. 1-5 and 8-10).

Orth is directed to an intraluminal stent for implanting in a body lumen in which a plurality of connecting members are deformed radially outward to form projecting barbs for

attaching the stent to a body lumen. (see, e.g., Orth Abstract). The intravascular stent 10 has a first stent section 11 and a second stent section 12. (see, e.g., Orth at col. 6, lines 26-27; FIG. 1). The patent states that “each of first stent section 11 and second stent section 12 have a plurality of cylindrical elements 13 which are connected by a plurality of connecting members 16. Each of cylindrical elements 13 are comprised of a series of peaks 14 and valleys 15 in a serpentine manner.” (see, e.g., Orth at col. 6, lines 27-32; FIGS. 1 and 1C). Further, “[d]ue to the serpentine nature of cylindrical elements 13, in addition to the connecting members 16, there appears a pattern of W-me[mb]ers 17, U-members 18, and Y-members 19.” (see, e.g., Orth at col. 6, lines 38-41; FIGS. 1 and 1C).

In the Office Action, the Examiner asserts that connecting members 16 of the Orth patent are analogous to the short, straight segments of Applicant’s disclosure, as recited in independent claim 12. (see, e.g., Office Action dated October 30, 2006, at pages 2-4). The Examiner further asserts that one or more peaks and valleys 14 and 15 of the Orth patent are analogous to the two curved portions of Applicant’s disclosure, as recited in independent claim 12. *Id.* Finally, the Examiner apparently asserts that one or more longitudinal struts of the W-members 17, U-members 18 and/or Y-members 19 of the Orth patent are analogous to the straight, flat mid portion of Applicant’s disclosure, as recited by independent Claim 12. *Id.*

Notwithstanding the significant structural differences between the stent disclosed in Orth’s FIGS. 1 and 1C and the figures of Applicant’s invention, Orth neither discloses nor teaches all of the limitations of Applicant’s claim 12. For example, Orth does not disclose or teach “*the intermediate straight, flat mid-portion is angled with respect to the short, straight segments at each end in an expanded state.*” Indeed, the Examiner has drawn lines to the two allegedly “short, straight segments” and the allegedly “straight, flat mid portion” of Orth. (see Office Action dated October 30, 2006, at page 4). As clearly seen in FIG. 1C of Orth, these three elements that the Examiner refers to are substantially parallel to one another in the expanded state.

In sharp contrast, Applicant’s claim 12 requires “*the intermediate straight, flat mid-portion is angled with respect to the short, straight segments at each end in an expanded state.*” For example, as noted above, element 18 of Applicant’s disclosure is angled with respect to elements 16 in an expanded state (see, e.g., Applicant’s specification at FIGS. 1-5 and 8-10).

Therefore, since Orth neither teaches nor suggests a limb, wherein an intermediate straight, flat mid-portion is angled with respect to short, straight segments at each end in an expanded state, Orth does not teach each and every one of the elements of independent claim 12. Applicant therefore submits that claim 12 is in condition for allowance.

For at least the reasons set forth above, Applicant respectfully submits that dependent claims 13-18 are also in condition for allowance.

## **II. NEW CLAIMS 22-25**

In the Office Action, the Examiner indicated that claims 19-21 contained allowable subject matter. Applicant has added new independent claims 22-24, which encompass the allowable subject matter of claims 19-21, respectively. More specifically, independent claim 22 adds the allowable subject matter of claim 19 into independent base claim 12. Similarly, independent claim 23 adds the allowable subject matter of claim 20 into independent base claim 12. Finally, independent claim 24 adds the allowable subject matter of claim 21 into independent base claim 12.

Applicant has also added new independent claim 25, which is directed to a limb forming a portion of a stent. Claim 25 has limitations similar to the limitations discussed above with respect to independent claim 12, and should be allowable for at least the reasons set forth above with respect to claim 12.

Accordingly, Applicant respectfully submits that new claims 22-25 are in condition for allowance.

## **CONCLUSION**

Each of the rejections in the Office Action dated October 30, 2006 has been addressed and no new matter has been added. Applicant submits that all of pending claims 12-18 and 22-25 are in condition for allowance and notice to this effect is respectfully requested. The Examiner is invited to contact the undersigned attorney if such communication would expedite the prosecution of this application.

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Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'Doug Oguss', written over a horizontal line.

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